

FCC MAIL SECTION

Before the
Federal Communications Commission
Washington, D.C. 20554

DISPATCHED BY MM Docket No. 92-196

In the Matter of

Amendment of Section 73.202(b), RM-8041
 Table of Allotments,
 FM Broadcast Stations.
 (Tallassee and Tuskegee, Alabama)

REPORT AND ORDER
(Proceeding Terminated)

Adopted: June 6, 1995;

Released: June 13, 1995

By the Chief, Allocations Branch:

1. Before the Commission for consideration is the *Notice of Proposed Rule Making*, 7 FCC Rcd 6213 (1992), issued in response to a petition filed on behalf of Tiger Broadcasting Company, Inc. ("Tiger"), proposing the reallocation of FM Channel 260A from Tuskegee to Tallassee, Alabama, and modification of the authorization of Station WACQ-FM, accordingly, pursuant to the provisions of Section 1.420(i) of the Commission's Rules.¹ Tiger filed supporting comments. WACQ submitted late-filed comments.²

2. Based upon the information presented in this proceeding, we believe the public interest would be served by reallocating Channel 260A from Tuskegee to Tallassee, Alabama, since it would result in a preferential arrangement of allotments pursuant to the Commission's change of community procedures. *See Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990). Tallassee (population 5,112)³ would receive its first local FM transmission service, as well as its first fulltime aural transmission service,⁴ thus triggering allotment priority (4).⁵ Additionally, this action will not deprive Tuskegee (population 12,257) of local service as Station WBIL-FM, Channel 240A, as well as fulltime Station WBIL(AM) are licensed at that community. Moreover, as neither Tuskegee nor Tallassee are located within an urbanized area, the

reallocation will not result in the transfer of a station from a rural to a larger urban area. Therefore, in accordance with the provisions of Section 1.420(i) of the Commission's Rules, we will modify the license for Station WACQ-FM to specify operation on Channel 260A at Tallassee, Alabama, in lieu of its present use at Tuskegee, Alabama.

3. As Station WACQ-FM currently places a 70 dBu signal over the entire community of Tallassee, Channel 260A can be allotted to that community at the petitioner's presently authorized site consistent with the minimum distance separation requirements of Section 73.207(b) of the Commission's Rules. Coordinates used for Channel 260A at Tallassee are 32-26-30 and 85-47-45.

4. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective **July 28, 1995**, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED with respect to the communities listed below, as follows:

City	Channel No.
Tallassee, Alabama	260A
Tuskegee, Alabama	240A

5. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of WACQ, Incorporated for Station WACQ-FM, IS MODIFIED to specify operation on Channel 260A at Tallassee, Alabama, in lieu of Tuskegee, Alabama, subject to the following conditions:

(a) Nothing contained herein shall be construed as authorizing any change in Station WACQ-FM's license (File No. BLH-921109KG) except the community, as specified above. Any other changes, except those so specified under Section 73.1690 of the Rules, require prior authorization pursuant to an application for a construction permit (FCC Form 301).

(b) Program tests may be conducted in accordance with the provisions of Section 73.1620 of the Rules, PROVIDED the transmission facilities comply in all respects with license (BLH-921109KG), except for the community as specified above, and a license application (FCC Form 302) is filed within 10 days of commencement of program tests.

¹ At the time this proposal was filed, Tiger was the permittee of Station WACQ-FM. A license to cover the construction permit was granted to Tiger on March 5, 1993 (File No. BLH-921109KG). Thereafter, an assignment of the license from Tiger to Tuskegee Communications Company, Incorporated ("TCC") was granted June 29, 1994 (File No. BALH-940509GF), followed by a further application for assignment of the license from TCC to WACQ, Incorporated ("WACQ"). The latter assignment application was granted on February 14, 1995 (File No. BALH-950124ED).

² These comments, which advise us of the recent assignment of the license of Station WACQ-FM from Tuskegee to WACQ, were not accompanied by a motion to accept. However, since the comments simply reaffirm WACQ's continuing interest in

pursuing the reallocation proposal initiated by Tiger, no prejudice will result from their acceptance. WACQ also requests that it be substituted for Tiger as the proponent in this proceeding, as it fully supports the reallocation proposal initiated by Tiger. We will grant WACQ's request.

³ Population figures are taken from the 1990 U.S. Census.

⁴ Tallassee is presently served locally by Station WTLS(AM), which operates daytime only.

⁵ The FM allotment priorities are: (1) first full-time aural service; (2) second full-time aural service; (3) first local service; and (4) other public interest matters. [Co-equal weight is given to priorities (2) and (3).] *See Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982).

6. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change in community of license of an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, WACQ, Incorporated, licensee of Station WACQ-FM, is required to submit a rule making fee in addition to the fee required for the applications to effectuate the change in community of license.

7. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

8. For further information concerning the above, contact Nancy Joyner, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
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Mass Media Bureau